

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No.: 2:16-cr-0046-GMN-PAL
vs.)	
)	ORDER
RYAN W. PAYNE,)	
)	
Defendant.)	
)	

The Court’s February 8, 2017 Order resolved Defendant and multiple co-defendants’ requests for dismissal and/or discovery stemming from the Office of Inspector General (“OIG”) of the United States Department of Interior January 30, 2017 Investigative Report regarding alleged misconduct by Dan Love. (Order, ECF No. 1556). In this Order, the Court granted co-defendants’ motions to compel, finding that the “OIG Report is material evidence.” (*Id.* 3:16). Specifically, the Court found that “the Government is subject to certain disclosure requirements if it intends to call SSA Love as a witness . . . Even if the OIG Report is not included in SSA Love’s personnel file, *Brady* and *Giglio* compel its production in unredacted form.” (*Id.* 3:19–20, 4:1–3). As to the disclosure of the personnel records of other federal agents, the Court reminded the Government of its continuing duty to inspect for material information in the personnel records of federal law enforcement officers who will testify at trial. (*Id.* 4:9–12). The Court then denied the defendants’ motions to dismiss, finding that “any possible prejudice is cured by the instant Order compelling production of the OIG Report.” (*Id.* 4:24–25).

1 In his instant motion, Defendant states:

2 Payne's Motion to Dismiss contained an alternative request that the Court compel the
3 government to produce *Henthorn*, *Brady*, *Giglio*, and *Jencks* materials, including OIG's
4 investigative file for all BLM officers, employees, and contractors who have had
5 involvement at any level with this case and BLM's personnel records (including internal
6 investigative records) for any BLM personnel who may have had involvement at any
level with this case, as well as grand jury testimony of all BLM officers, employees, and
contractors involved in this case to the defense.

7 (Mot. Clarification 4:9–15, ECF No. 1586). Defendant seeks clarification because the Court
8 denied his motion to dismiss, but did not include his "ECF Number" when the Court granted
9 the related motions to compel, even though Defendant's motion was filed both as a Motion to
10 Compel and Motion to Dismiss.

11 The Court finds that Defendant's request is far too broad and inconsistent with the
12 Court's original Order. Defendant is only entitled to the production of the requested materials
13 regarding a particular law enforcement officer if the Government intends to call that officer to
14 testify at trial. *See United States v. Santiago*, 46 F.3d 885, 895 (9th Cir. 1995). Therefore, the
15 Court clarifies that it did not grant Defendant's broad alternative request regarding production
16 of materials.

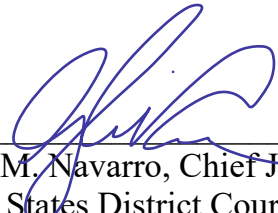
17 To the extent that Defendant seeks clarification regarding the phrase "related
18 documents," (Mot. Clarification 5:2–3), the Court notes that this phrase was utilized in the
19 following context: "[I]f the Government intends to call SSA Love as witness, then the
20 Government must disclose to Defendants the OIG Report in unredacted form, if such a version
21 exists, as well as any related documents." (Order 5:12–14). Therefore, under the Court's Order,
22 Defendant is entitled to documents related to Love if the Government calls Love to testify.

23 Lastly, Defendant seeks clarification as to the timing of these disclosures. The Court
24 resolved this issue at the Status Conference on August 31, 2017, ordering such disclosures no
25 later than 30 days prior to trial. (*See* ECF No. 2331).

1 Accordingly,

2 **IT IS HEREBY ORDERED** that Defendant's Motion for Clarification (ECF No. 1586)
3 is **GRANTED in part, DENIED in part**. The motion is granted to the extent that the Court
4 has clarified its prior Order, but denied in all other respects.

5 **DATED** this 31 day of October, 2017.

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10 Gloria M. Navarro, Chief Judge
11 United States District Court
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